

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MARCUS DUMOND, et al.,

Plaintiffs,

v.

MASSACHUSETTS FINANCIAL SERVICES
CO. and MFS FUND DISTRIBUTORS, INC.,

Defendants.

C.A. No. 04-11458 (GAO)

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants Massachusetts Financial Services Co. and MFS Fund Distributors, Inc. hereby move to dismiss the Complaint against them. As set forth in the accompanying memorandum of law, the Complaint does not state a claim against defendants under the Investment Company Act or the rules promulgated thereunder.

REQUEST FOR ORAL ARGUMENT

Defendants respectfully request oral argument pursuant to Local Rule 7.1(D).

WHEREFORE, defendants respectfully request that this Court:

- (i) dismiss the Complaint in its entirety with prejudice, without leave to re-plead, and enter judgment for defendants and against plaintiffs on all claims;
- (ii) grant oral argument; and

(iii) grant such further relief as may be just and proper.

Respectfully submitted,

/s/ Jonathan A. Shapiro

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Dated: April 15, 2005

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Counsel for defendants certifies that she has conferred with plaintiffs' counsel in a good faith attempt to resolve or narrow the issues raised in this Motion, but has been unable to do so.

/s/ Amanda P. Masselam

Amanda P. Masselam